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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/037,325	01/03/2002	Harry W. Eberle III	0247-5	5841

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EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 11/30/2007

Please find below and/or attached an Office communication concerning this application or proceeding.

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No. 10/037,325	Applicant(s) EBERLE, HARRY W.	
	Examiner Ernesto Garcia	Art Unit 3679	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 27 August 2007 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.

EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

See attachment.

Response to Amendment

The reply filed on October 27, 2007 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): The appeal brief still has not been corrected. The explanation of the subject matter of claims 29 and 33 in the brief was not changed. The explanation is still about the disclosed invention rather than the claimed invention. Further, section (v) is misleading since the paragraph at page 9 does not map out claim 33 but rather places the contents of claim 29 in this section without being mapped out. Applicant needs to map out the independent claims individually so that their subject matter is defined in those claims. The applicant needs to mention what the independent claims call for referring to the specification by page and line number and to the drawings by reference character.

Further, the contents appearing in the first paragraph of page are not in claim 29 and should be deleted since this paragraph does not map out the claim. The third paragraph of page 10 attempts to map out the claim; however, this paragraph contains subject matter not disclosed in claim 29 as previously pointed out which has been reworded and still not being present in claim 29. For instance, at page 10, in the last paragraph, it mentions "a shape that is generally rectangular". This is not called for in claim 29 and should be deleted. Further, the subject matter appearing on page 11, lines 10-14, is not present in claim 29. Note that claim 29 does not mention "floor joists", "the side of top element 2 thereby being located at a height", "horizontal beams",

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or "deck surface". The same applies to the subject matter "joist beam" and "deck surface member" appearing on page 12, line 1. Note that these are also not present in claim 29.

With respect to claim 33, the same applies. It should also be noted that the description of the "decking boards" in the last line on page 12 does not include reference characters and thus does not map put the claim accurately. In the description of claim 33, at the beginning, it makes reference to "claims 29-32". It is unclear why that description is placed in here when claim 33 does not have the subject matter of claims 29-32 or makes reference to these claims. Page 13, line 11, mentions "a support board". This is not the subject matter of claim 33 and should be deleted. Further still, the method of disposition as described on page 13, lines 13-18, is not found in claim 33 and should be deleted since the steps are not found in claim 33.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ernesto Garcia whose telephone number is 571-272-7083. The examiner can normally be reached from 9:30AM-6:00PM. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached at 571-272-7087.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



E.G.

November 28, 2007



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